

FILED

JUN 16 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SHI TUNG YAN,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-74357

Agency No. A79-784-794

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted June 12, 2006^{**}

Before: KLEINFELD, PAEZ and BERZON, Circuit Judges.

Shi Tung Yan, a native and citizen of China, petitions for review of an order of the Board of Immigration Appeals (“BIA”) denying his motion to reopen removal proceedings based on newly discovered evidence. We have jurisdiction

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

pursuant to 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *see de Martinez v. Ashcroft*, 374 F.3d 759, 761 (9th Cir. 2004), and we deny the petition for review.

The BIA did not abuse its discretion in denying Yan's motion to reopen. The evidence he submitted did not address the agency's adverse credibility finding. *See* 8 C.F.R. § 1003.2(c)(1).

PETITION FOR REVIEW DENIED.